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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/656,416 | 09/05/2003 | Billy Franklin Beasley JR. | 31599/260254 | 7566 |

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 08/16/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|--|--------------------------------------|---------------------------------------|--|
| Notification of Non-Compliant Appeal Brief (37 CFR 41.37) | Application No. 10/656,416 | Applicant(s) BEASLEY ET AL. | |
| | Examiner Dennis Cordray | Art Unit 1731 | |


--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 19 June 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.


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Continuation of 10. Other (including any explanation in support of the above items): The brief does not contain the Evidence Appendix or Related Proceedings Appendix.

If there is no evidence being relied upon by the appellant in the appeal, then an evidence appendix should be included with the indication "none."

In regard to the related proceedings appendix, if there are no such copies of decisions being submitted in appeal, then a related proceedings appendix should be included with the indication "none."

With regard to item 4, the majority of the references to the Specification for a concise explanation of the subject matter are directed to the claims, rather than to the written description of the invention in the Specification. For instance, the cited support for the explanation of Claim 1 is Claim 1 (Specification, page 10, lines 1-8). The requirement of referring to the Specification by page and line number is important to enable the Board to quickly determine where the claimed subject matter is described in the Specification. See MPEP 1205.02(v). An example of a reference to the Specification in support of Claim 1 is page 2, lines 24-28; and page 5, lines 6-14 and 18-24.

With regard to item 5, Applicant has mistakenly noted that the prior rejections concerning U.S. Patent No. 1,765,560 to Clapp were withdrawn in the Advisory Action issued January 19, 2007. The the rejection of Claims 1-2, 4-6, 8 and 13 under 35 U.S.C. 103(a) over Clapp was withdrawn, but the use of Clapp in the remaining rejections has not been withdrawn. Although Clapp may not in itself make the claimed invention obvious, the reference nevertheless provides valid teachings of what was known to one of ordinary skill in the art at the time of the invention. The statement of Grounds of Rejection must be amended to include the combination of Chance et al in view of Clapp or McCowan, and of Chance et al in view of Clapp or McCowan and further in view of the other cited references.

ORR